

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SAMIRA SIERRA, AMALI SIERRA,
RICARDO NIGAGLIONI, ALEX GUTIERREZ, and
CHARLES HENRY WOOD, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

CITY OF NEW YORK, a municipal entity; and
Mayor BILL DE BLASIO, Chief of Department
TERENCE A. MONAHAN, Assistant Chief
KENNETH C. LEHR, Inspector ROBERT
GALLITELLI, Bureau Chief HARRY WEDIN,
Deputy Chief JOHN D'ADAMO, Deputy Chief
GERARD DOWLING, Captain JULIO DELGADO,
Sergeant KENNETH RICE, Sergeant THOMAS
GARGUILO, Police Officer JOHN MIGLIACCIO,
and Police Officer THOMAS MOSHER, in their
individual capacities,

Defendants.

20-cv-10291 (CM)(GWG)

20-cv-10541 (CM)(GWG)

**DECLARATION OF
JOSHUA MOSKOVITZ**

JOSHUA S. MOSKOVITZ, an attorney duly admitted to practice before this Court,
declares under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am a Partner at Hamilton Clarke, LLP. Along with Kaufman Lieb Lebowitz &
Frick LLP; Rickner PLLC; and Michael L. Spiegel, Esq.; my firm represents the Plaintiffs in this
matter.

2. I am fully familiar with the facts of this case, and I submit this declaration in support
of Plaintiffs' unopposed motion for preliminary approval of the proposed class settlement, class
certification and appointment of class counsel for settlement purposes, and approval of the
proposed class notice and administration process.

3. Plaintiffs' counsel are adequate Class Counsel. We performed extensive work identifying and investigating the claims in this case. Before filing suit, we interviewed Plaintiffs, reviewed available documents, reports, and videos, and conducted further investigation into potential claims. During this lawsuit, we have vigorously litigated Plaintiffs' claims, successfully defended against a motion to dismiss, conducted extensive discovery, successfully moved to amend to add defendants and consolidate the *Sierra* and *Wood* cases, and conducted extensive settlement negotiations with Defendants.

4. My firm, Hamilton Clarke, LLP, has the resources and expertise to represent the proposed class, conduct the proposed notice procedure, and oversee the work of the Claims Administrator. Hamilton Clarke, LLP is boutique litigation firm focused on civil rights and federal criminal defense litigation. Lance Clarke, one of the co-founding partners of Hamilton Clarke, has represented the plaintiffs in this case since the inception of this litigation. The firm has sufficient staff to adequately manage this case as a certified class action.

5. I am the partner in charge of Civil Litigation at Hamilton Clarke and I have ample experience litigating class action lawsuits. I am lead counsel in *Sughrim v. State of New York*, No. 19-cv-07977 (RA) (SDA) (S.D.N.Y.), a putative class action lawsuit concerning religious discrimination claims against the New York Department of Corrections and Community Supervision. Recently, Magistrate Judge Stewart D. Aaron issued a Report in that case recommending plaintiffs' motion for class certification be granted. *See Sughrim v. State of New York*, No. 1:19-cv-07977 (RA) (SDA), 2022 U.S. Dist. LEXIS 198090 (S.D.N.Y. Oct. 29, 2022). I have represented plaintiffs in other class action lawsuits, including *Floyd v. City of New York*, No. 08-cv-1034 (S.D.N.Y.); *MacNamara v. City of New York*, No. 04-cv-9216 (S.D.N.Y.); *Syed*

v. City of New York, No. 16-cv-4789 (S.D.N.Y.); *McLennon v. City of New York*, No. 14-cv-6320 (E.D.N.Y.); and *Hall v. Warren*, No. 21-cv-6296 (FPG) (W.D.N.Y.).

6. I am admitted to practice law in New York; New Jersey; the United States Courts of Appeals for the Second, Third, Fifth, and D.C. Circuits; all four United States District Courts in New York; and the United States District Court for the District of New Jersey. I have never been the subject of discipline nor any complaint in any jurisdiction.

7. I graduated *summa cum laude* from the Benjamin N. Cardozo School of Law in 2010 with the highest honor in my graduating class and I was inducted to the Order of the Coif. During law school, among other activities, I was an Articles Editor on the *Cardozo Law Review*; supervised the Cardozo Chapter of the Unemployment Action Center; co-founded the Cardozo Chapter of the National Lawyers Guild; and, as part of my work with the Cardozo Appeals Clinic, authored the appellant's briefs in *People v. Taylor*, 15 N.Y.3d 518 (2010), which led to the reversal of our client's murder conviction.

8. Following law school, I clerked for the Hon. James L. Dennis of the United States Court of Appeals for the Fifth Circuit for two years. After my clerkship, I was hired by Beldock Levine & Hoffman, LLP, where I worked on major civil rights litigations and class actions.

9. In 2016, I co-founded Bernstein Clarke & Moskowitz PLLC ("BCM"), while maintaining an "of counsel" relationship with the Beldock firm. I was the partner-in-charge of BCM's civil litigation practice until the firm dissolved in 2020. In 2020, I started The Law Office of Joshua Moskowitz, P.C., and in 2022, I joined Hamilton Clarke, LLP as partner in charge of Civil Litigation and Appeals.

10. I have been lead trial counsel in federal jury trials in the Southern and Eastern Districts of New York. I was lead counsel in an evidentiary hearing related to novel First

Amendment issues in *Zhang Jingrong v. Chinese Anti-Cult World Alliance*, No. 15-cv-01046 (JBW) (VMS). Based on the record adduced at that hearing, District Judge Jack B. Weinstein granted my clients' motion for summary judgment in part and later denied the defendants' opposing motion for summary judgment on the constitutionality of 18 U.S.C. § 248(b).

11. Throughout my career, I have been lead counsel in more than fifty civil rights cases, and I have appeared as co-lead counsel on dozens of other civil rights cases, including *Brown v. City of New York*, No. 15-cv-4091 (S.D.N.Y.), which resulted in a \$2.55 million settlement for the family of Barrington Williams Jr., who died in police custody. I am currently lead counsel in more than a dozen civil rights cases in state and federal courts.

12. In addition to my trial-level practice, I have successfully argued appeals in the Second Circuit involving novel constitutional questions, including *Brown v. City of New York*, 798 F.3d 94 (2d Cir. 2015) (which established constitutional law concerning excessive force in the circuit); and *Hughes v. City of New York*, 680 Fed. App'x 8 (2d Cir. 2017) (which addressed an issue of first-impression concerning First Amendment law following the Supreme Court's decision in *Heffernan v. City of Paterson*, 578 U.S. 266 (2016)). I have also argued and briefed appeals in the Third, Fifth, and D.C. Circuits, and state appellate courts.

13. I have published two scholarly articles. In 2010, I published *The Usual Practice: Raising and Deciding Failure to Exhaust Available Administrative Remedies as an Affirmative Defense Under the Prison Litigation Reform Act* in 31 CARDOZO L. REV. 1859 (2010). And in 2015, I published a chapter in Volume II of *Reentry Planning for Offenders with Mental Disorders: Policy and Practice* entitled "Expanding Access to Mental Health and Substance Abuse Services Through Parity Laws and the Affordable Care Act" (Henry A. Dlugacz, ed., Civic Research Institute 2015).

14. I have guest lectured at the Benjamin N. Cardozo School of Law and CUNY School of Law; and in March 2015, I was asked to speak on a panel at a conference at Cardozo Law School entitled “Policing, Conflict, and Change.”

15. Each year between 2015 and 2021, I was selected to Super Lawyers’ “Rising Stars” in Civil Rights in the New York Metro Area; and in 2022, I was selected to Super Lawyers in my first eligible year.

16. Along with Plaintiffs’ other counsel in this case, I am qualified to represent the putative class in this matter with regard to class issues.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: February 28, 2023

Joshua S. Moskowitz